III. REMARKS

1.   Claims 1-35 remain in the application. Claims 1, 24, and 33 have been amended.   Support for the amendments may be found in the specification, for example, on page 5, lines 14-17, page 7, lines 6-20.

2.   Applicants appreciate the indication that claims 6-8, 10-12, 19-21, 23, 26-31, 34, and 35 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.   However, Applicants believe that these claims are patentable as they stand for the reasons stated below.

3.   Claims 1-5, 9, 13-18, 22, 24, 25, 32, and 33 are not anticipated by Haskell et al. (US 5,742,343, "Haskell") under 35 USC 102(b).

Haskell fails to disclose or suggest receiving control information, and determining a target ratio of bit rates of the first data stream and the second data stream in the third data stream according to the control information and adjusting the combination of the first data stream and the second data stream in the third data stream by adjusting the first and the second bit-rates so as to maintain the ratio substantially constant, as recited by claims 1, 24, and 33.

In Haskell, there is no determining a target ratio of bit rates of the first to second data stream according to control information.

Lines 25-40 in column 5 of Haskell cited by the Examiner, disclose fullness signals output by buffers c3190 and c3210 and used to control a base encoder and an enhancement encoder. As stated in column 5, lines 24-27 of Haskell, the fullness signals are used to prevent overflow or underfiow. Base encoder c3140 uses the c3190 fullness signal to control the data flow into buffer c3190 according to any method of controlling data flow known in the art. Enhancement encoder uses both c3190 and c3210 signals to control data flow into buffer c3210. When buffer c3190 is too full, enhancement encoder c3180 could cease producing data, allocating the entire bit ratio to the base layer.

There is nothing explicit or implied about determining a target ratio of bit rates of the first to second data streams. Using the c3190 fullness signal to control the data flow into buffer c3190 "according to any method of controlling data flow known in the art" in no way anticipates the present invention because receiving and using control information to determine a target ratio of the first to second data streams was not know in the art without the present invention.

It is clear that the base encoder is simply controlled by the signal from buffer c3190 while the enhancement encoder is controlled by the signals from buffers c3190 and c3210 and that those signals simply indicate buffer fullness. There is no mechanism to use control information to determine a target bit rate ratio of the first and second data streams.

In the Response to Arguments section of the October 25, 2005 Final Office Action, the Examiner states that the base encoder is coupled to the enhancement encoder by bus c3200, and that the

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fullness signal on bus c3200 is control information exchanged between the base and enhancement encoders. Applicants respectfully disagree because as disclosed by Haskell and as shown by the arrows in Figure 1, buffer c3190 outputs a fullness signal on bus c3200 which passes to both encoders. The encoders do not exchange information at all, they simply receive a common fullness signal. The base encoder uses the signal from buffer c3190 and the enhancement encoder uses the signals from both buffers c3190 and c3210 to control the data flow into their respective buffers. There is no mention of receiving control information to determine a target ratio of bit rates of the data streams from the encoders.

There is also no disclosure related to adjusting the combination of the first data stream and the second data stream by adjusting the first and the second bit-rates so as to maintain the ratio substantially constant.

As mentioned above, the signals from buffers c3190 and c3210 indicate buffer fullness. The base encoder is controlled by the signal from buffer c3190 while the enhancement encoder is controlled by the signals from buffers c3190 and c3210. There is clearly no disclosure related to maintaining a ratio of the first and second data streams substantially constant by adjusting their bit rates.
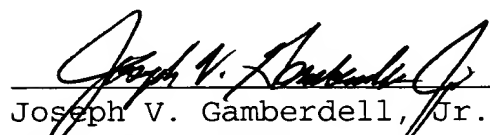
For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should
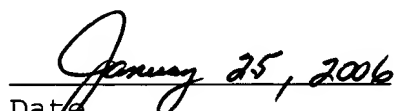
any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of $790.00 is enclosed for the RCE fee.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

_____   _____
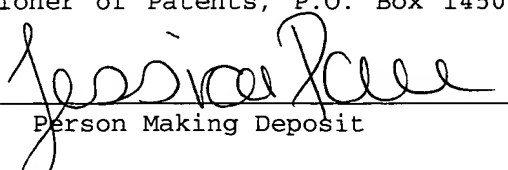Joseph V. Gamberdell, Jr.   Date   January 25, 2006
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